REMARKS/ARGUMENTS

Claims 1-27 are pending in the present application.

This Amendment is in response to the final Office Action mailed May 17, 2005. In the Office Action, the Examiner rejected claims 1-27 under 35 U.S.C. §102(b). Applicants have amended claims 1-5, 7, 9-14, 16, 18-23, 25, and 27. Reconsideration in light of the amendments and remarks made herein is respectfully requested.

Rejection Under 35 U.S.C. § 102

1. In the Office Action, the Examiner rejected claims 1-27 under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,579,522 issued to Christeson et al. ("Christeson"). Applicants respectfully traverse the rejection and contend that the Examiner has not met the burden of establishing a prima facie case of anticipation.

Christeson discloses a dynamic non-volatile memory update in a computer system. A flash memory device contains a normal system BIOS 201 and a recovery BIOS 202 used for recovery operation (Christeson, col. 5, lines 36-40; lines 44-46). To prevent an aborted BIOS update from rendering the computer non-functional, there are two update modes: a normal update mode and a recovery update mode (Christeson, col. 6, lines 8-12). Recovery update mode is used when a user cannot boot the system because the normal system BIOS has been corrupted following a power failure during a normal BIOS update (Christeson, col. 6, lines 27-30). A jumper is used to modify the address to configure the system to either a normal BIOS map or a recovery BIOS map (Christeson, col. 7, lines 8-15).

Christeson does not disclose, either expressly or inherently, (1) adding a new initiation module to a BIOS firmware of a computing system having an extensible firmware architecture, the BIOS firmware having a plurality of initiation modules including recovery initiation modules for recovery of the computing system and non-recovery modules, (2) automatically evaluating the initiation module; and (3) designating the new initiation module as a recovery initiation module if the new initiation module is required for the recovery of the computing system.

Christeson merely discloses two update modes, not adding a new initiation module. The recovery BIOS 202 is fixed (e.g., occupying fixed address range and having a size of 8K as shown in Figure 2 of Christeson) and is used to provide the recovery BIOS update mode. There

is no new initiation module to be added to the BIOS firmware. To clarify this aspect of the invention, claims 1, 10, and 19 have been amended.

In the Final Office Action, the Examiner states that Christeson teaches the verification of the flash memory area which is interpreted as automatically evaluating the initiation module (Final Office Action, page 10, paragraph 32). Applicant respectfully disagrees. Verification of the flash memory area merely verifies the area for reading and writing. The area may contain LAN processing logic, SCSI processing logic, or any other hardware or software logic (Christeson, col. 8, lines 29-36). The flash memory area is not, and does not contain an initiation module. Furthermore, verification is not the same as evaluating. As recited in independent claims 1, 10, and 19, evaluating includes determining if the new initiation module is designated as a recovery initiation module.

The Examiner further contends that the BIOS including both a normal BIOS in one memory block and recovery BIOS in another area of the flash memory is interpreted as designating the recovery area in the flash memory (Final Office Action, page 10, paragraph 32). Applicant respectfully disagrees. The division of the BIOS into the normal BIOS map and the recovery BIOS map is done before the update and without adding a new initiation module. Therefore, it cannot designate the new initiation module as a recovery initiation module. Furthermore, since the partitioning of the flash memory is fixed, there is no determination if an initiation is required for the recovery.

To anticipate a claim, the reference must teach every element of the claim. "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." Vergegaal Bros. v. Union Oil Co. of California, 814 F.2d 628, 631, 2 USPQ 2d 1051, 1053 (Fed. Cir. 1987). "The identical invention must be shown in as complete detail as is contained in the...claim." Richardson v. Suzuki Motor Co., 868 F.2d 1226, 1236, 9 USPQ 2d 1913, 1920 (Fed. Cir. 1989). Since the Examiner failed to show that Christeson teaches or discloses any one of the above elements, the rejection under 35 U.S.C. §102 is improper.

Therefore, Applicants believe that independent claims 1, 10, and 19 and their respective dependent claims are distinguishable over the cited prior art references. Accordingly, Applicants respectfully request the rejection under 35 U.S.C. §102(b) be withdrawn.

Conclusion

Applicant respectfully requests that a timely Notice of Allowance be issued in this case.

Respectfully submitted,

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